

BANKING DIVISION[187]

Notice of Intended Action

Proposing rule making related to investment and lending powers and providing an opportunity for public comment

The Iowa Division of Banking (IDOB) hereby proposes to amend Chapter 9, “Investment and Lending Powers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 524.213.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 524.905 and 524.908.

Purpose and Summary

The proposed amendments reflect the Iowa Division of Banking’s compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, “over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency’s rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies.” The proposed amendments to Chapter 9 are intended to clarify the meaning of the chapter and to eliminate outdated requirements.

Fiscal Impact

No current fees are being changed, and no new fees are being added; therefore, the IDOB has concluded that the proposed amendments will not have a fiscal impact on the State of Iowa.

Jobs Impact

Because no existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added, the IDOB has concluded that the proposed amendments will have no impact on jobs in Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the IDOB no later than 4:30 p.m. on September 4, 2018. Comments should be directed to:

Zak Hingst
Iowa Division of Banking
200 East Grand Avenue, Suite 300
Des Moines, Iowa 50309-1827
Phone: 515.281.4014
Email: zak.hingst@idob.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 187—9.2(17A,524) as follows:

187—9.2(17A,524) Real estate lending. This rule is promulgated to provide more uniformity with the final guidelines adopted by the Federal Deposit Insurance Corporation, the Federal Reserve System, and the Department of the Treasury. This rule shall apply to real estate loans either originated by the state bank or acquired by purchase, assignment, or otherwise.

9.2(1) to 9.2(3) No change.

9.2(4) ~~Reserved.~~

9.2(5) 9.2(4) Evidence of title. The state bank shall obtain, when lending for the purpose of acquisition or for the purpose of refinance of acquisition when a new mortgage, deed of trust, or similar instrument is filed, either one of the following:

a. A written legal opinion by an attorney admitted to practice in the state in which the real estate is located showing marketable title in the mortgagor and describing any existing liens and stating that the state bank’s mortgage, deed of trust, or similar instrument is a lien on the real estate, ~~or. An Iowa title guaranty certificate issued by the Iowa title guaranty division of the Iowa finance authority satisfies this requirement.~~

b. Title If the real property is located in a state other than Iowa, title insurance written by an insurance company licensed to do business in the state in which the real property is located, describing any existing liens and insuring the title to the real property and the validity and enforceability of the mortgage, deed of trust, or similar instrument as a lien on the real property.

9.2(6) Insurance. ~~Rescinded IAB 3/2/05, effective 4/6/05.~~

9.2(7) Disclosures. ~~Rescinded IAB 3/2/05, effective 4/6/05.~~

9.2(8) 9.2(5) Exceptions. There are certain real estate transactions in which other factors significantly outweigh the need to apply the provisions of this rule. Therefore, the following transactions are exempt from this rule:

a. to e. No change.

9.2(9) 9.2(6) Exempted transactions. In addition to the exemptions set forth in subrule ~~9.2(8)~~ 9.2(5), it may be appropriate, in light of all relevant credit considerations, including community reinvestment factors, for state banks, in certain instances, to originate or purchase real estate loans that

do not meet the requirements of this rule. State banks shall be allowed to make such loans; however, the aggregate amount of all real estate loans that fall into this category shall not exceed aggregate capital as reflected on the state bank's most recent consolidated report of condition, unless prior approval to exceed this limitation has been obtained from the superintendent. These exempted loans must be identified by the board of directors by name and outstanding balance and must be reviewed by the board no less frequently than annually. Examiners, during the course of their examinations, will determine whether these exempted loans are adequately documented and appropriate in light of overall safety and soundness considerations. No real estate loans to directors, officers, or principal shareholders or their related interests shall be allowed in the exempted category of this subrule.

This rule is intended to implement Iowa Code section 524.905.

ITEM 2. Amend paragraph **9.3(2)“k”** as follows:

k. All lease receivables shall be booked in accordance with ~~call report~~ the instructions for preparation of the consolidated reports of condition and income.

ITEM 3. Rescind paragraph **9.3(3)“b.”**

ITEM 4. Reletter paragraph **9.3(3)“c”** as **9.3(3)“b.”**